IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8656 OF 2004

Bajirao Rajaram Bhosale.. .. Petitioner.

Versus

The Chairman,
Kisanveer, Satara Sahakari Sakhar
Karkhana Ltd. & another. .. .. Respondents.

Mr.Rajiv L.Patil with Mr Nikhil Kulkarni
for the Petitioner.

Mr. K.S.Bapat for Respondent No.2.

CORAM : R.M.S.KHANDEPARKAR, J.

DATED : 24TH NOVEMBER, 2004.

P.C.:

Heard learned advocates for the parties. Perused record.

2. The Petitioner challenges the judgment and order dated 23rd September, 2004 passed by the Industrial Court in Complaint (ULP) No.64 of 2001 dismissing the Complaint filed by the Petitioner.

3. The Complaint was filed by the Petitioner alleging

adoption of unfair labour practice under Item Nos. 9 and 10 of Schedule IV of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971 by the Respondents on account of termination of his services before superannuation. It was the defence of the Respondents that the Petitioner had disclosed the wrong date of birth and on considering his real date of birth he had already attained the age of superannuation.

4. The Industrial Court after considering the entire evidence on record has held that the Respondent had produced certificate which establish that the date of birth of the Petitioner was not 15th July, 1949 but correct date of birth was 15th July, 1939. The impugned order is sought to be challenged solely on the ground that no fair and proper opportunity was given to the Petitioner to establish his case that he was in fact born on 15th July, 1949. In that regard, it was sought to be argued that the Petitioner had filed an application for summoning the Tahsildar along with the original record in relation to the registration of the birth of the Petitioner. However, the said application was rejected. Undisputedly, while rejecting the said application, the Industrial

Court had observed that the Petitioner could produce the certified copy of such birth record as the same is a public document. Undisputedly, the Petitioner did not make any effort to produce any such certified copy of his registration of the birth nor could establish by producing cogent evidence that he was actually born on 15th July, 1949. On the contrary, the evidence on record clearly disclosed that the Petitioner's younger brother by name Sarjerao, who was serving in Government Department in District Collectorate Office at Thane had attained the age of superannuation on 30th June, 2000 by which time admittedly the Petitioner had not retired. The Petitioner had been the student of Orient High School and Ruparel College at Bombay and the Certificate issued by the Orient High School and Ruparel College disclosed his date of birth to be 15th July, 1943. Apparently, the Petitioner had sought to disclose different dates of birth at different places. The Certificate issued by the Primary School at village Kikali disclosed the date of birth of the Petitioner to be 15th July, 1939 and as that was the earliest in time of registration of birth of the Petitioner the same was accepted as the correct date of registration of the birth of the Petitioner. No fault can be found with the findings

arrived at by the Industrial Court by placing reliance upon such evidence that the Petitioner was in fact born on 15th July, 1939 and that there was, therefore, no case made out by the Petitioner about the allegation of adoption of unfair labour practice by the Respondents. The finding arrived at in that regard is clearly borne out from the record and does not warrant any interference in the writ jurisdiction. Hence, the petition is rejected.

Sd/-

(**R.M.S.KHANDEPARKAR,J.**)